

WAYNE KLEIN, #3819  
Assistant Attorney General  
JAN GRAHAM, #1231  
Utah Attorney General  
160 East 300 South, Fifth Floor  
Box 140872  
Salt Lake City, Utah 84114-0872  
Telephone: (801) 366-0310  
**Attorneys for Plaintiff**

---

IN THE EIGHTH JUDICIAL DISTRICT COURT

UINTAH COUNTY, STATE OF UTAH

---

THE STATE OF UTAH,

Plaintiff,

vs.

STEVEN L. EVANS, JOSEPH L. EVANS,  
COUNTRY GOLD BROADCASTING,  
INC., and EVANS BROADCASTING, INC.

Defendants.

:  
:  
: **FINAL JUDGMENT:**  
: **CONSENT DECREE**  
:

:  
:  
: CASE NO. 980800622  
:

:  
: JUDGE: A Lynn Payne  
:

---

**FINAL JUDGMENT BY CONSENT**

Plaintiff, State of Utah, filed a complaint in this matter on November 18, 1998  
involving the above-named defendants. Defendants have determined to consent to the entry of  
this Final Judgment (hereinafter referred to as "Consent Decree") before the taking of any

testimony and without trial or adjudication of any issue of fact or law, and without this Consent Decree constituting any admission by defendants for any purpose other than the entry of this Consent Decree.

The parties have agreed that prompt and certain dissolution and divestiture of the entities and interests described herein are essential elements of this agreement to assure that competition is not substantially lessened. Defendants have represented to plaintiff that the dissolutions and divestiture required below and the relief related thereto can and will be made by them and that defendants will not hereafter raise any claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions stated below.

NOW THEREFORE, upon consent of the parties, it is hereby ORDERED, ADJUDGED AND DECREED, as follows:

### **I. JURISDICTION**

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting to this Final Judgment and Consent Decree. The parties recognize that the Complaint states a claim upon which relief may be granted against defendants under the Utah Antitrust Act, Utah Code Ann. § § 76-10-911 et seq. (1998), but defendants do not admit that any violation of the law occurred.

### **II. DEFINITIONS**

As used in this Consent Decree:

1. "Ashley Communications" means the Utah corporation currently controlled by a Vernal resident not a party to this action. It is the owner of the Vernal radio stations KVEL and KLCY. Steve Evans is a part owner of Ashley Communications and, pursuant to this Consent Decree, may become the controlling (or sole) owner.
2. "Attorney General" means the Utah Attorney General or her or his designee.
3. "Communications" shall mean all oral, electronic, and written methods of contact. It includes telephone and facsimile transmissions, face-to-face meetings, correspondence, electronic mail, and other forms of communication.
4. "Competing Stations" means any radio stations that operate in the same broadcast areas as any radio stations owned or operated by defendants, including any radio stations that are not currently in operation but may be operated in the future.
5. "Defendants" include Steven L. Evans, Joseph L. Evans, Country Gold Broadcasting, Inc., and Evans Broadcasting, Inc.
6. "Dissolution" means that if an entity or association (whether incorporated or not, or formally organized or not) is operating or has operated in the past, its existence will be terminated and will not be resurrected, either directly or indirectly. Neither will its functions be transferred to, or assumed by another entity.
7. "Divestiture" means that the commonly owned limited liability company DEE

Properties, L.L.C. will no longer be owned by the immediate families of both Steven Evans and Joseph Evans. It may be owned solely by Joseph Evans (and his wife, if desired), but there can be no ownership or operational interest or managerial control by Steve Evans or his immediate family or by any other person with any business relationship with radio stations owned, managed, or controlled by Steve Evans.

8. "Radio Stations" means the combined AM and FM components of a business that owns and operates both components. For the Roosevelt entities, radio stations means the call letters KNEU and KIFX. For the Vernal entities, radio stations means the call letters KVEL and KLCY.

### **III. APPLICABILITY**

This Consent Decree applies to each of the defendants, their officers, directors, partners, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Consent Decree by personal service or otherwise.

### **IV. DIVESTITURE/DISSOLUTION**

Defendants are hereby ordered and directed, in accordance with the terms of this Consent Decree, within sixty (60) days after the filing of this Consent Decree to dissolve the limited liability company, DEE Properties, L.L.C. Defendants are ordered to divest themselves of any partnerships, companies, or other business ventures in which any other defendant associated with

a competing station will retain any managerial or ownership interest, except as specifically approved by the Attorney General.

In anticipation of this judgment, defendants already have undertaken significant steps to accomplish the divestiture and dissolution. These steps have been taken after notice was given to the Attorney General. Defendants shall provide written certification to the Attorney General when these divestitures and dissolutions have been finalized.

#### **V. JOINT PROMOTIONS**

Defendants are ordered not to conduct any joint promotions or joint activities except as permitted herein. Defendants are specifically permitted to support events sponsored or produced by entities not affiliated with defendants, even if another defendant also is a supporter, so long as it does not have the intent or effect of facilitating anticompetitive practices.

#### **VI. PERMITTED ACTIVITIES**

The following activities are specifically permitted, to the extent they do not conflict with other provisions of this order:

1. Steven L. Evans may become the owner of the radio station licenses in Vernal. He may purchase from the current owner the radio license and/or Ashley Communications, Inc. He may operate and manage the stations in Vernal so long as they are operated as a separate entity from the stations in Roosevelt and so long as they are operated in a way to compete vigorously against other radio stations in

the same broadcast area.

2. Joseph L. Evans may become the sole owner of the assets of DEE Properties, L.L.C. This includes his ownership of the land on which the Vernal radio stations are located. He is permitted to be the landlord for the competing Vernal radio stations so long as the transactions are conducted at fair market value. The rent must be at least as much as the fair market value of the use of the land.
3. Subject to other limitations contained in this order, the stations in both towns may produce advertising that will be used on the creating radio stations and the competing radio stations. This permission is subject to strict limitations including: a) it must occur only when requested by the advertiser and not suggested to the advertiser, director or indirectly, by either radio station, b) the advertisement is such that the advertiser reasonably would have an interest in having the same advertisement run on stations in both towns, c) the limitations of Section VIII of this Consent Decree are satisfied.

## **VII. RECORDS TO BE MAINTAINED**

Defendants are ordered to create and maintain a log of all contacts between the radio stations in Vernal and those in Roosevelt. This log will include a record of:

1. All communications between the competing radio stations, including all communications between the competing stations or between the officers,

directors, partners, employees, and agents of the competing stations relating, directly or indirectly, to the business of radio stations.

2. All business meetings at which representatives of both radio stations are present. This shall include meetings of the chamber of commerce, fraternal associations, and any meetings associated with community events that are supported by one or both of the stations.
3. Any community or commercial events that have both stations as supporters (such as concerts, rodeo, and Christmas charitable programs)
4. Any sales of equipment from one station to the other.
5. Any contact between the stations or their employees pursuant to any joint ventures that previously have been approved in writing by the Attorney General.
6. All instances of one station producing advertising that will be aired on any other radio station. The log will identify the advertiser involved, the work performed by the producing station, the identity of any other radio stations to be using the advertising produced by the creating station, how the advertising was delivered to the advertiser or the other station, and any billing to the advertiser or other radio station for the production.
7. Any meetings with advertisers at which any representative of a competing station is present.

8. All payments to the other radio station or officers, directors, partners, employees, or agents of the other radio station. Specifically, this should also include any payments by the Vernal stations to Joseph Evans as rent for use of the land under the Vernal radio stations.

The log to be maintained pursuant to this section will, to the extent applicable, identify the date and time of each event, identify the persons participating in the meeting or event, and a brief summary of the discussion at the meeting or the terms of the joint activity.

#### **VIII. PRODUCTION OF ADVERTISEMENTS**

If either radio station produces advertising at the request of an advertising customer, that will either a) be created with an additional "dub" for a competing station, or b) utilize the voice of an employee of the creating radio station, the advertising services must be listed on the log identified in section VII above, and satisfy one of the following conditions:

- The production services performed in connection with the creation of the advertisement will be billed to the customer as a separate cost from the billing of the air time for the running of the advertisement; or
- The creating radio station will submit a bill to the competing radio station for its production costs incurred in creating the "dub" or for the use of the services of the employee of the creating radio station.

The services identified in this section will be billed at their fair market value.



Any advertisements that are created by either station for use on any other station will be delivered by the creating station to either the customer or the advertising agency, unless the customer or advertising agency requests that it be delivered to another station. In such a situation, the station is permitted to do so, so long as the advertisement must be delivered within 48 hours. Delivery is permitted by industry practice of posting the advertisement on the Internet, or some other electronic means. If the advertisement is not needed within 48 hours, it shall go to the customer or the advertising agency for delivery for use on other stations.

#### **IX. INJUNCTION; PROHIBITED CONDUCT**

Defendants, their officers, directors, partners, agents, and employees, and all other persons in active concert or participation with any of them are permanently enjoined from engaging in any acts, practices, or courses of business that would constitute violations of the Utah Antitrust Act, Utah Code Ann. § § 76-10-911 *et seq.*, and, without limiting the generality of the foregoing statement, they are permanently enjoined from:

1. Sharing any work product between the competing radio stations such as creation or reporting of news, weather, sports, or programming (except as described herein).
2. Engaging in any joint ventures with any competing radio stations, including, especially, the radio stations in Vernal or Roosevelt, without the prior written permission of the Attorney General. This will include any sharing of radio

transmission towers or facilities, or any other lawful joint or common activities.

If permission is requested of the Attorney General, written notice must be given at least thirty (30) days in advance of the venture for which permission is requested.

Whether permission is granted is within the sole discretion of the Attorney General. If the Attorney General has not denied the request within thirty days, it shall be deemed approved for purposes of this Consent Decree. If the activity is denied by the Attorney General, defendants shall not engage in the conduct or joint venture without approval of this court, after notice and a hearing.

3. Entering into, or continuing any joint sales agreement or local marketing agreements with any other radio stations having the same or overlapping broadcast area as defendants.
4. Sharing any equipment or facilities with other radio stations in the same broadcast area except in an emergency. In the event a bona fide emergency requires the sharing of facilities or equipment, defendants shall give written notice to the Attorney General of the emergency. This notice shall include a description of the emergency, outline the sharing of facilities or equipment, and identify plans for terminating the sharing. This sharing shall terminate within 14 days of notice by the Attorney General, in her sole discretion, that she opposes the sharing of facilities or equipment - unless a court issues an order permitting the continuance

or unless the Federal Communications Commission certifies that the sharing is necessary and appropriate.

5. Discussing prices or terms of advertising, the identity of advertising customers, or any other competitive aspect of operations with a competing radio station.
6. Entering into or continuing any agreements with a competing station regarding operations, dividing up customers or markets, or jointly selling advertising or other services.
7. Entering into or continuing any joint promotions requiring coordination by the competing stations. This does not prohibit the stations in both towns from simultaneously being supporters of events being promoted by persons unrelated to the radio stations such as the annual rodeo or other community events - so long as the competing radio stations are not, directly or indirectly, consulting or agreeing with each other, or acting in concert.
8. Forwarding mail or other information to the competing stations. If any station receives mail, money, or information directed at the competing station, that mail, money, or information shall be returned to the sender, rather than forwarding the material to the competing station.
9. The employment of any joint or common employees by the competing stations. This provision does not prohibit the use of "stringer" reporters who are not

employees and who are paid for each story, not on salary, wage, or commission, so long as the competing stations are not communicating with each other regarding the employment or conduct of the stringers. This provision also does not prohibit the use, by stations in both towns, of other independent contractors, such as engineers, where each station contracts with the independent contractors separately and where there is no communication between the competing stations regarding the employment or conduct of the contractors.

10. Consultations between competing stations or their officers, directors, partners, employees, or agents in any way on employment issues.
11. Creating advertising copy or voice or "dubs" for use by any competing radio station unless a) it complies with requirements of Section VIII above, and b) the advertiser has specifically requested (without any suggestion from defendants, directly or indirectly) that the advertising be altered to become suitable for use on the competing stations.
12. Any conduct or actions that discourage, directly or indirectly, the start-up or operation of any new radio stations that will cover any of the same broadcast area as defendants. Specifically, defendants shall not oppose, directly or indirectly, efforts by others to start any new radio stations covering any of the same broadcast area. This prohibition does not prevent normal practices of a competing

radio station.

13. Any joint or common ownership of any business, whether or not related to the operation of radio stations in the Uintah Basin so long as both Steven L. Evans and Joseph L. Evans are engaged, directly or indirectly, in the operation of competing radio stations.
14. Acquiring any direct or indirect interest in any existing or new radio broadcasting facility in the Uintah Basin without receiving written consent, in advance, from the Attorney General, in her sole discretion. At least thirty (30) days advance notice must be given to the Attorney General. If the Attorney General has not denied the request within the thirty day period, the request will be deemed approved.

#### **X. OTHER CONDITIONS AND REQUIREMENTS**

1. Public Record, Copies This Consent Decree is a matter of public record. Defendants shall include a copy of this Consent Decree in the public reference file of each licensed radio station owned or operated by any defendant. Defendants shall provide to all employees of any radio station owned or operated by defendants written instructions on permissible and prohibited conduct relating to competing radio stations.
2. Annual Compliance Training of Employees At least once each year, each radio

station shall conduct a training meeting for all officers, directors, partners, employees, and agents reminding them of the restrictions on their conduct regarding the competing radio stations and of the requirements of this Consent Decree. If the radio stations have adopted any codes of conduct relating to antitrust or competition issues, that those codes of conduct shall be reviewed.

3. Annual Report On, or before, February 1 of each year, each radio station (the combined AM and FM format) shall provide to the Attorney General a report of compliance with the requirements of this Consent Decree. The report shall be addressed to the Attorney General's Antitrust Unit, and shall contain at least the following: a) a certification that defendants have complied with the terms of the Consent Decree, including, without limitation, notice that the required annual training of employees has been completed, b) certification that a copy of this Consent Decree has been provided to each new employee hired during the prior year, c) a copy of the log being maintained pursuant to this Consent Decree, and d) any other information relevant to compliance with this Consent Decree.
4. Change in Ownership If there is any change in ownership or management of any radio station owned or operated by defendants, written notice shall be provided to the Attorney General within 30 days of the change.
5. Compliance Inspection For the purpose of determining or securing compliance

with this Consent Decree, and subject to any legally recognized privilege, the Attorney General shall be permitted, upon reasonable notice to defendants, to: a) inspect and copy all books and records in the possession or control of defendants relating to matters contained in this Consent Decree; and b) interview officers, directors, partners, employees, and agents of defendants relating to matters contained in this Consent Decree. In the event of any such inspection or interviews, defendants and the persons interviewed may have counsel present.

6. Special Report Upon the written request of the Attorney General, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Consent Decree as may be requested.
7. Confidentiality, Trade Secrets No information or documents obtained by means of inspections, interviews, or requests for special reports shall be divulged by the Attorney General or any representative of the Attorney General to any person other than a duly authorized law enforcement official or in the course of legal proceedings to which the Attorney General is a party for the purpose of securing compliance with the Consent Decree, or as otherwise required by law. If any information contained in the annual report to be provided to the Attorney General or in any other submissions contain confidential information, defendants may represent that portions of the material are confidential and shall identify, in

writing, those portions of documents for which a claim of confidentiality is being asserted. In the event of the assertion of a valid claim of confidentiality, the Attorney General shall give ten (10) days notice (or if the Attorney General is under an obligation to disclose the information in less than ten days time, as much advance notice as possible) to such defendant prior to divulging such material in any legal proceeding to which defendant is not a party.

8. Government Proceeding Only This Consent Decree and its requirements are part of a settlement of a governmental action. The parties acknowledge that this is a disputed claim and defendants have consented to this settlement to avoid the expense and difficulties of trial and possible fines and penalties. None of the requirements or conditions contained herein may be enforced by other parties nor can they be used as evidence in any action, private or public, for any purpose, by parties other than the parties to this Consent Decree.
9. Disputes Regarding Compliance If the Attorney General determines that defendants are not in compliance with the requirements of this Consent Decree or become aware of other information that she feels may evidence anticompetitive conduct, the Attorney General will give defendants at least thirty (30) days advance notice before bringing an action for contempt or a civil injunctive action. Defendants will have the opportunity to present information to the Attorney



General's office within that time period.

#### **XI. RETENTION OF JURISDICTION**

Jurisdiction is retained by this Court for the purpose of enabling the Court, at any time, to make such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any provision of this Consent Decree, for the enforcement of compliance herewith, and for the punishment of any violation thereof.

#### **XII. NOTICES**

Notices to be given to the Attorney General under this Consent Decree will be valid if sent by mail or delivered to:

Antitrust Unit  
Utah Attorney General  
160 East 300 South  
Box 140872  
Salt Lake City, UT 84114-0872

#### **XIII. TERMINATION**

Unless this Court grants an extension, this Consent Decree will expire upon the sale of the radio stations in either town to an unrelated third party in a transaction in which the defendant ceases to have any interest in the radio station. At any time that either Joseph Evans or Steven Evans has no interest in any radio station in the Uintah Basin, any further obligations under this Consent Decree will terminate. However, in such event, all antitrust obligations under state and federal antitrust laws will continue to apply.

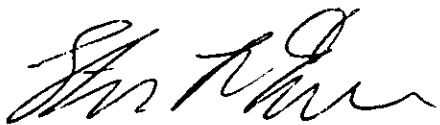
#### XIV. PUBLIC INTEREST

Entry of this Consent Decree is in the public interest.

#### XV. CONSENT

The defendants have consulted with counsel regarding the advisability to enter into this Consent Decree and regarding the meaning of their obligations under this Consent Decree.

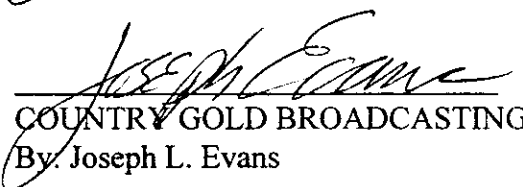
Without admitting that any violation of the Utah Antitrust Act has occurred, defendants consent to the entry of this Consent Decree and agree to be bound by its requirements.



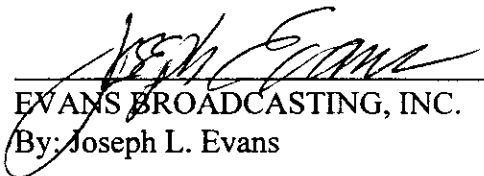
STEVEN L. EVANS



JOSEPH L. EVANS



COUNTRY GOLD BROADCASTING  
By: Joseph L. Evans



EVANS BROADCASTING, INC.  
By: Joseph L. Evans

**SUBMISSION BY ATTORNEY GENERAL**

The Utah Attorney General, believing that this Consent Decree is in the best interests of the public and will promote competition in the radio station markets in the Uintah Basin hereby submits this Consent Decree to the court.

R. WAYNE KLEIN  
Assistant Attorney General

By: Wayne Klein 11-17-98  
R. Wayne Klein

**ORDER**

IT IS SO ORDERED.

Dated this 24 day of November, 1998.

151 ATP  
DISTRICT JUDGE